THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CIVIL CASE NO. 3:13-cv-00397-MR-DLH

|) |
|-------------|
|) |
| ORDER) |
|))) |
|) |
| |

THIS MATTER is before the Court on the Defendant's Motion to Dismiss [Doc. 11] and the Magistrate Judge's Memorandum and Recommendation [Doc. 13] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and a specific Order of referral of the District Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the pending motion in the above-captioned action and to submit to this Court a recommendation for its disposition.

On January 28, 2014, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings and fact and

conclusions of law in support of a recommendation regarding the motion to dismiss. [Doc. 13]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed factual findings are correct and the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendant's Motion to Dismiss be granted and this case be dismissed without prejudice due to the Plaintiff's failure to prosecute.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Memorandum and Recommendation [Doc. 13] is ACCEPTED; the Defendant's Motion to Dismiss [Doc. 11] is GRANTED; and this action is hereby DISMISSED WITHOUT PREJUDICE due to the Plaintiff's failure to prosecute.

The Clerk shall enter a separate judgment contemporaneously herewith, thereby closing the case.

IT IS SO ORDERED.

Signed: February 24, 2014

Martin Reidinger

United States District Judge